

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

NETLIST, INC.,	)	
	)	
Plaintiff,	)	
	)	Case No. 2:22-cv-293-JRG
vs.	)	
	)	JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO, LTD;	)	
SAMSUNG ELECTRONICS AMERICA,	)	
INC.; SAMSUNG SEMICONDUCTOR	)	
INC.,	)	
	)	
Defendants.	)	
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NETLIST, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2:22-cv-294-JRG
	)	
MICRON TECHNOLOGY, INC.; MICRON	)	
SEMICONDUCTOR PRODUCTS, INC.;	)	
MICRON TECHNOLOGY TEXAS LLC,	)	
	)	
Defendants.	)	
	)	

**JOINT MOTION TO AMEND  
THE DOCKET CONTROL ORDER**

Plaintiff Netlist, Inc. (“Netlist”), Defendants Samsung Electronics Co, Ltd, Samsung Electronics America, Inc., Samsung Semiconductor Inc. (collectively “Samsung”), and Defendants Micron Technology, Inc., Micron Semiconductor Products, Inc., and Micron Technology Texas LLC (collectively “Micron”) (collectively “the Parties”) respectfully file this Joint Motion to amend the Second Amended Docket Control Order (Dkt. No. 110) to extend the deadlines relating to discovery and expert reports in the above-captioned case.

Current Deadline	Amended Deadline	Event
April 15, 2024	No change	*Jury Selection – 9:00 a.m. in <b>Marshall, Texas</b>
7 days before Jury Selection	No change	*Defendant to disclose final invalidity theories, final prior art references/combinations, and final equitable defenses
10 days before Jury Selection	No change	*Plaintiff to disclose final election of asserted claims
March 18, 2024	No change	* If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date.
March 11, 2024	No change	* Pretrial Conference – 9:00 am in <b>Marshall, Texas</b> before Judge Roy Payne
March 4, 2024	No change	*Notify Court of Agreements Reached During Meet and Confer  The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
March 4, 2024	No change	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
February 26, 2024	No change	*File Notice of Request for Daily Transcript or Real Time Reporting.  If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at <a href="mailto:shelly.holmes@txed.uscourts.gov">shelly.holmes@txed.uscourts.gov</a> .
February 20, 2024	No change	File Motions <i>in Limine</i>  The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
February 20, 2024	No change	Serve Objections to Rebuttal Pretrial Disclosures

February 12, 2024	No change	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
January 29, 2024	No change	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
January 22, 2024	January 30, 2024	*Response to Dispositive Motions (including <i>Daubert</i> Motions). Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order. Motions for Summary Judgment shall comply with Local Rule CV-56.
January 8, 2024	January 16, 2024	*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)  No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.
January 8, 2024	January 16, 2024	*File Dispositive Motions  No dispositive motion may be filed after this date without leave of the Court.  Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>
December 23, 2023	January 9, 2024	Deadline to Complete Expert Discovery
December 11, 2023	December 18, 2023	Serve Disclosures for Rebuttal Expert Witnesses
November 13, 2023	November 20, 2023	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
November 13, 2023	November 20, 2023	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof

The parties understand that amendment to several of the deadlines requires a showing of good cause. Good cause exists to move these deadlines. The parties are currently scheduling fact witness depositions, which has been made difficult in view of fact discovery recently closing in *Netlist, Inc. v. Micron Technology, Inc.*, No. 2:22-cv-203-JRG (E.D. Tex.)

(“*Micron I*”), as well as ongoing expert discovery scheduled to close on November 10, 2023 and dispositive motions due on November 14, 2023 in that case (*see Micron I*, 2:22-cv-203-JRG-RSP, Dkt. No. 182), both of which are only days from the current fact discovery opening expert disclosure deadlines in these consolidated cases. Further challenges include the large number of outstanding depositions in these cases, including nearly all of the 85 hours allocated per party according to the Discovery Order (Dkt. No. 56). Given the large amount of upcoming fact testimony anticipated, additional time would not only facilitate deposition scheduling but also provide the experts with adequate time to consider this testimony while crafting their opening reports.

Separately, Netlist’s lead counsel has trial scheduled in November, including before this Court set to start on November 27, 2023. *G+ Commc’ns, LLC v. Samsung Elec. Co., Ltd.*, No. 22-cv-78 (E.D. Tex.). The trial dates generally overlap with the expert discovery of this Action.

The requested extension is focused to provide as little disruption to the current docket control order as possible.

No other amendment is requested at this time. A proposed order is attached.

Dated: November 3, 2023

Respectfully submitted,

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MICRON TECHNOLOGY TEXAS  
LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on November 1, 2023. As of this date, all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

*/s/ Yanan Zhao*  
Yanan Zhao

**CERTIFICATE OF CONFERENCE**

Pursuant to Local Rules CV-7(h) and (i), counsel for the parties met and conferred on the issues and all the parties join the motion.

*/s/ Yanan Zhao*  
Yanan Zhao